

### **REMARKS**

Claims 56-58, 61-65, 67-76, and 78-81 are pending in the application. Claims 56, 71 and 78 are independent.

In a previously filed Response to Office Action filed on April 22, 2009:

Claims 56, 71 and 78 have been amended to include the following limitations, “capable of a detectable tooth-bleaching effect within 30 minutes” and “with a pH between 7-10” support for which can be found in the specification. No new matter has been added.

Claim 56 has been amended to include the limitation of “at least 10%” support for which can be found in the specification. No new matter has been added.

Claims 71 and 78 have been amended to include the limitation of “at least 10% of a” support for which can be found in the specification. No new matter has been added.

Claims 58 and 67-69 have been cancelled.

Applicant mistakenly did not provide a response to the Obvious Type Double Patenting Rejection. Applicant apologizes for this oversight and is submitting this Supplemental Response to supplement the Office Action Response filed on April 22, 2009 and provide a complete reply to the Obvious Type Double Patenting Rejection.

Reconsideration and favorable action are respectfully requested. Applicant respectfully traverses the rejection.

### **RESPONSE**

#### **Obvious Type Double Patenting**

Claims 56-58, 61-65, 67-76 and 78-81 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting over claims 1-16 of copending application 11/256654 in view of Collin et al (US 5,033,650) (Collin).

According to the Examiner, the conflicting claims are not identical, but not patentably distinct. The claims comprise two part compositions where the first part is a hydrogen peroxide containing component and the second is a pH adjusting agent. The copending claims also mix the two parts prior to use. The claims are different in that the copending claims do not recite a chelating agent or a static mixer in the independent claims. According to the Examiner, Collins supplies the deficiencies and that it would have been obvious to one of ordinary skill in the art

use a multichamber vessel to mix the compositions of the copending claims prior to use in a preferred volumetric ratio.

Although Applicant does not agree with all the analysis and conclusions, in the interest of advancing prosecution, Applicant is willing to submit a terminal disclaimer. However, since this is a provisional rejection, Applicant respectfully requests the Examiner to hold the requirement of a terminal disclaimer in abeyance until one of the sets of claims is found to be allowable. Favorable action is respectfully requested.

### **CONCLUSION**

The applicant believes that this Supplemental Amendment in conjunction with the Response to Office Action previously filed on April 22, 2009, addresses all of the points raised in the Office Action, and requests reconsideration and allowance of the present application, with pending claims 56-57, 61-65, 70-76, and 78-81.

If a telephone conference would be helpful in resolving any issues concerning this communication, please contact the undersigned at 310-845-8312.

Dated: June 18, 2009

Respectfully submitted,

/Frederick W. Tong/

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